

CHAPTERS 14 to 17
Reserved

CHAPTER 18
PRACTICE AND PROCEDURE BEFORE THE
DEPARTMENT OF INSPECTIONS AND APPEALS
DIVISION OF RACING AND GAMING
[Prior to 11/18/87, Racing and Gaming Division[195]]
Rescinded IAB 12/25/91, effective 1/29/92

CHAPTER 19
PROCEDURE FOR RULE MAKING
[Prior to 11/18/87, see Racing and Gaming Division[195]]
Rescinded IAB 12/25/91, effective 1/29/92

CHAPTER 20
APPLICATION PROCESS FOR EXCURSION BOATS
AND RACETRACK ENCLOSURE GAMING LICENSE

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]

491—20.1 to 20.9 Reserved.

491—20.10(99F) Application—general.

20.10(1) *Qualified applicant.* The term “applicant” as used in 491—Chapters 20 and 21 shall refer to the qualified nonprofit corporation and the boat operator if different than the qualified nonprofit corporation.

a. Any qualified nonprofit corporation may apply to the commission for a license to conduct casino gambling on qualified excursion gambling boats. The application shall be filed with the administrator of the commission at least 60 days before the first day of casino gambling which the nonprofit corporation or association proposes to conduct.

b. Any boat operator that enters into a management contract or operation agreement with a qualified nonprofit corporation may apply to the commission for a license to operate an approved excursion gambling boat. The operator shall be subject to the same conditions of licensing, statutory provisions and administrative rules as the qualified nonprofit applicant and licensee. An application submitted by a qualified nonprofit corporation in conjunction with a boat operator shall be considered to be one application.

c. A qualified nonprofit corporation holding a valid license to conduct pari-mutuel dog or horse racing pursuant to Iowa Code chapter 99D on January 1, 1994, may apply to the commission for a license to operate gambling games within the racetrack enclosure pursuant to 1994 Iowa Acts, House File 2179, section 13.

20.10(2) *Licensing condition.* Every license to conduct casino gambling or to operate a gambling boat is granted upon the condition that the license holder shall accept, observe and enforce the applicable laws of the state of Iowa, including the rules and orders of the commission, as well as all applicable federal and local statutes, ordinances and regulations. Applicants are hereby put on notice that license holders are accountable for the conduct of their officers, agents and employees. The commission reserves the right to impose penalties, up to and including license revocations, against the license holder or its officer, agent, or employee, or both as the commission determines is appropriate in the circumstances of a given situation.

20.10(3) *Construction of rules.* These rules shall be construed in accordance with generally accepted rules of construction, and

a. Nothing contained in these rules shall be construed to conflict with any provision of the excursion gambling boat Act or any applicable statute.

b. If any provision of these rules be held invalid, it shall not invalidate any other provisions of these rules.

20.10(4) *Granting a privilege.* An application for a casino gambling license on excursion gambling boats or racetrack enclosure is seeking the granting of a privilege. The burden of proving qualifications for the privilege to receive any license is on the applicant at all times. An applicant must accept all risks of adverse public notice, public opinion, embarrassment, criticism, or financial loss which may result from action with respect to an application. An applicant, its officers, directors, shareholders, partners and personnel members, expressly waive any claim for loss, expense or damage, against the Iowa racing and gaming commission, its members, staff and personnel, resulting from the application process. Applicants further covenant and agree to hold harmless and indemnify the Iowa racing and gaming commission from any claim arising from any action of the commission in connection with that application.

20.10(5) *Application criteria.* An application for excursion boat gambling shall be filed using forms provided by the commission. The proposals of the applicant shall conform to Iowa Code chapter 99F and the following operational criteria:

a. Each fiscal year, beginning July 1, 1990, the commission shall collect an admission fee in accordance with commission policy.

b. to d. Rescinded IAB 6/8/94, effective 5/20/94.

e. The minimum payout on each machine game shall be 80 percent. A weighted average payout of all machine games shall be posted at the point of ticket sales.

f. Rescinded IAB 6/8/94, effective 5/20/94.

g. There will not be a mandated minimum admission fee.

h. to j. Rescinded IAB 6/8/94, effective 5/20/94.

k. A qualified sponsoring organization may apply for a license for more than one boat with identical or different operators. Each request for a boat will be considered a separate application for purposes of these rules.

l. Licenses will be issued for not more than an original three-year period and subject to annual renewals thereafter.

m. An on-line computer system to track slot machine data will be required.

20.10(6) Terms. For purposes of these rules, the terms “stock” and “stockholder” shall also be defined as meaning “members” and “membership interest in” for nonprofit corporations organized under Iowa Code chapters 504A and 504B.

20.10(7) Confidentiality. Applicants shall designate those portions of the application which they wish the commission to keep confidential. The commission staff will review any request for confidentiality and shall only grant the request if it complies with Iowa Code section 22.7. Nothing in this rule shall be construed as to limit access to public records as defined in Iowa Code chapter 22.

20.10(8) Commission action on application. The commission may grant a license to conduct excursion gambling conditioned upon specific performance within specific time periods of actions or involvement as proposed. If performance required by the commission has not occurred within the time frame established, the commission may revoke the license. When an application is filed with the commission, the commission may set a deadline after which there shall be no additions, amendments, or deletions unless permitted by the commission.

20.10(9) Notice of hearing. Notice of hearing will be given by letter to all applicants for excursion gambling boat or racetrack enclosure licenses. This notice will identify the time and place when their applications will come before the commission for review and consideration. The applicants are required to attend the meeting of the commission. They may be represented at the meetings by an attorney or agent. The commission will notify the applicant in writing of the disposition of the application.

20.10(10) All applicants shall sign and verify the application. It is grounds for denial of an application for a license, for the imposition of a fine, or for the suspension or revocation of a license for any person to make or fail to make any statement of material fact in any application, notice, statement or report filed with the commission, if the presence or absence of the statement could confuse or mislead the commission.

491—20.11(99F) Items included in application.

20.11(1) Balance sheets and profit and loss statements. The applicant shall attach to the application, balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. If the applicant is a subsidiary organization, the applicant shall submit the appropriate balance sheets and profit and loss statements for all subsidiary organizations of the applicant. Balance sheets, profit and loss statements, and all other financial statements required herein shall be prepared, audited and certified by independent certified public accountants in accordance with generally accepted accounting procedures and practices accepted on a consistent basis. Any report containing exceptions of a material nature will not be considered to be certified.

20.11(2) Loans and legal actions. The applicant shall state all loans by applicant and describe fully the name of the borrower, amount of the loan, collateral, and terms. The applicant shall briefly describe any pending legal proceedings to which the applicant or any of its subsidiaries, partners or parent corporation is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, and the principal parties thereto.

20.11(3) Owning an interest. State if the applicant, its directors, officers, policy-making manager, partners or stockholders have owned an interest in any firm, partnership, association, or corporation previously licensed by the Iowa racing and gaming commission or are now or have been engaged in the business of racing or gaming outside of the state of Iowa.

20.11(4) Contracts.

a. Management contracts by the licensee are permitted. Such contracts must contain the following provisions:

(1) The contract and any future amendments thereto must be subject to the approval of the Iowa racing and gaming commission.

(2) The contract must preclude the licensee from granting to another party a share, percentage or proportion of the money received for admissions to the excursion gambling boat.

(3) The contract must state that both parties jointly accept the responsibility for compliance with the laws of Iowa and the rules of the commission.

(4) The contract must contain a provision allowing the full verification of contract compliance for both parties and remedies if either party is not in compliance.

(5) The contract must prohibit the subcontracting of any duty related to casino gambling.

b. The applicant shall state all contracts by the applicant entered into within the year preceding the date of application and all executory contracts not otherwise described pursuant to these rules in which the annual consideration exceeds \$50,000 and describe fully, including the duration, the names of the parties to the contract, amount of consideration and terms.

c. The applicant shall provide evidence of an agreement between the licensee and representatives of the dog or horse owners to use receipts from gambling games within the racetrack enclosure to supplement purses pursuant to Iowa Code subsection 99F.6(4) "a" as amended by 1994 Iowa Acts, House File 2179, section 15.

20.11(5) Direct remuneration. As used in this paragraph, direct remuneration shall include salary, retirement benefits, dividends, automobiles furnished, expenses reimbursed, and all other sums paid for the benefit of the officer, director or other recipient. The applicant shall list all direct remuneration paid by the applicant and its subsidiaries, or parent corporation if any, during the applicant's last fiscal year to:

a. Each director and officer of the applicant whose aggregate direct remuneration exceeded \$10,000 naming each person;

b. All directors of the applicant as a group naming each person;

c. All officers of the applicant as a group naming each person;

d. All other persons whose aggregate remuneration, related to excursion boat gambling, exceeds \$10,000 naming each person.

20.11(6) Distribution of receipts. For purposes of this subrule, recipient shall be defined as that entity receiving funds directly from the qualified sponsoring organization and not subsequent beneficiaries through another organization.

a. The qualified sponsoring organization shall provide a certification describing how all receipts, after deductions allowed in Iowa Code section 99F.6(4), will be distributed. The certification shall be subscribed and sworn to by an executive officer of the qualified sponsoring organization, in the presence of a licensed notary public. Distributions by a qualified sponsoring organization for educational, civic, public, charitable, patriotic, or religious uses as defined in Iowa Code section 99B.7, subsection 3, paragraph "b," shall be subject to the following requirements.

(1) All such distributions shall be made according to written criteria, which shall be made available to any person upon request.

(2) Potential recipients of any such distributions shall be required to certify that the intended use of the proceeds of the distributions will comply with the uses as defined in Iowa Code section 99B.7, subsection 3, paragraph "b." A potential recipient shall also explain in writing how the intended use of the proceeds of the distribution will benefit the residents of Iowa.

(3) The qualified sponsoring organization shall establish written procedures concerning the avoidance of conflicts of interest when determining such distributions.

(4) The qualified sponsoring organization shall require each recipient of a distribution, as a condition precedent to such distribution, to provide any information requested by either the qualified sponsoring organization or the commission for the purpose of determining whether such distribution satisfies the written criteria and procedures of the qualified sponsoring organization as well as any statute or rule governing such distribution.

(5) Such distributions shall not be made in return for remuneration, inducement or other consideration to the qualified sponsoring organization pursuant to any contract, agreement or other understanding, either written or oral, unless the contract, agreement or understanding is approved by the commission, nor shall any such distributions be made under duress, coercion, threat or other compulsion, either expressed or implied.

b. For the previous year, a qualified sponsoring organization shall provide the following information regarding any distributions for educational, civic, public, charitable, patriotic, or religious uses as defined in Iowa Code section 99B.7, subsection 3, paragraph “b”:

(1) The written criteria by which all such distributions were evaluated and the written procedures for avoiding conflicts of interest, including the effective dates and substance of all amendments or modifications thereof.

(2) The identity of each recipient of a distribution and the amount and specific use of each distribution.

(3) A notarized statement that to the best of the executive officer’s knowledge, after appropriate investigation, all such distributions by the qualified sponsoring organization complied with its written criteria and procedures as of the effective dates of such distributions, as well as all statutes of the state of Iowa and rules of the commission.

c. The qualified sponsoring organization shall not delegate the making of its distribution decisions to any other person or entity without the prior consent of the commission.

d. In determining whether to fund a request from a potential recipient, the qualified sponsoring organization shall consider how the intended use of the proceeds of the distribution will benefit the residents of Iowa.

e. No licensee or qualified sponsoring organization shall make a distribution to any organization that has an employee, officer or director who is a member of the commission. This provision does not apply to employees, officers, directors or trustees of political subdivisions or their affiliated agencies or boards. No commission shall express, or otherwise attempt to influence, a qualified sponsoring organization as to the commissioner’s preference for a potential grantee.

20.11(7) Bond. The applicant shall provide proof that applicant is able to obtain a bond as required by Iowa Code section 99F.8.

491—20.12(99F) Proposed excursion route and docking facilities.

20.12(1) Every application to become a license holder shall contain the following information about the number of excursions, docking locations and physical plants:

a. State the county or counties and docking locations.

b. State whether or not applicants’ docking locations are in counties that have conducted a referendum with an affirmative vote pursuant to Iowa Code section 99F.7(10), and state the percentage of the affirmative vote.

c. Give actual boat blueprints, including a layout of each deck stating the projected use of each area.

d. State whether the excursion gambling boat has been or will be certified by the United States Coast Guard.

e. Set forth the proposed route to be taken during the excursion, identifying the body of water, and include any relevant Army Corps of Engineers data or Iowa department of natural resources data on that body of water. Set forth the dates, number of excursions per day, and include proposed length of the excursions and estimated time that the boat will be in transit along the proposed route. If applicable, the applicant shall demonstrate compliance with Iowa Code section 99F.7(14).

f. State the total estimated cost of construction or renovation of the excursion gambling boat and shore and dock facilities, proposed by this application, distinguishing between known costs and projections, and separately identify:

- (1) Facility design expense;
- (2) Land acquisition costs;
- (3) Site preparation costs;
- (4) Excursion gambling boat construction cost or renovation cost;
- (5) Equipment acquisition cost;
- (6) Cost of interim financing;
- (7) Organization, administrative and legal expenses;
- (8) Projected permanent financing costs.

g. Set forth the construction schedule proposed for completion of the facility; include therein an estimated date of project completion. Indicate whether the construction contract includes a performance bond.

h. State the source or sources of funds for the construction of the facility proposed by this application. Identify and document the following:

- (1) Each source of equity contribution and the amount of such contribution and the present commitment, if any, received for each funding contribution;
- (2) Each source of debt contribution, and the amount of such contribution and the present commitment, if any, received for such financing.

i. State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population's center.

j. Names and addresses of all persons holding an equity interest in the boat, shore and docking facilities, all personal property or equipment on the boat and docking facilities.

k. Describe the casino size and configuration of slot machines, video games of chance and table games.

l. Describe the on-shore facilities and type of construction. Submit at least one copy of architect's plans or renderings showing detail of any proposed construction, or existing structure to be used.

m. Describe the space set aside in both the shore location and the excursion gambling boat designated as office space for commission staff and the division of criminal investigation office. This space should be adequate to accommodate both agencies.

n. State the availability of fire protection and the adequacy of law enforcement on the boat, both at the docking facilities and along the proposed excursion route.

o. Indicate the parking lot capacity and describe the construction and type of parking facilities.

p. Describe the arrangements for food and drink concessions, indicating the names and addresses of concessionaires and the terms of the concession contracts.

- q.* Indicate the type of slot machines and video games of chance to be used; also, indicate the proposed distributors and manufacturers of this equipment.
- r.* Provide evidence that the proposed excursion gambling boat, as nearly as practicable, resembles Iowa's riverboat history.
- s.* Describe the physical location, size and floor plan of the section of the excursion gambling boat reserved for patrons under 21 years of age. Provide plans for activities and staffing of this section.
- t.* Describe the physical location, size and floor plan of the section reserved for the promotion and sale of Iowa arts, crafts and gifts native to Iowa.
- u.* Provide a viable plan to remove a boat located on inland waters in the event gaming operations cease.

20.12(2) Reserved.

491—20.13(99F) Excursion gambling boat and casino operation.

20.13(1) Every application to become a license holder shall contain the following information about the excursion gambling boat and casino operations:

- a.* Indicate by actual date the excursion days and times requested by the applicant, and periods of time that the casino will be in operation.
- b.* Indicate the kind of games to be conducted in the casino.
- c.* Describe the proposed management of the facility, management personnel by function and, with respect to personnel, furnish personal history résumés on forms provided by the commission. Information for background investigations must be submitted to department of criminal investigation on department of criminal investigation forms. Attach a copy of any written contract or describe the terms of any oral agreement between applicant and the employee.
- d.* Provide financial projections reflecting the development period and the first five succeeding years. Show the number of excursion days needed to break even and the optimum number of operation days the applicant seeks. Include any and all known feasibility studies made available to the applicant which have been done on the type of gaming in the particular locale where the applicant intends to conduct excursion boat gambling.
- e.* Describe plans for the drug testing of pilots, captains, and physical operators of the excursion gambling boat.
- f.* Provide documentation describing the coordination with department of economic development to promote tourism throughout Iowa. Describe specific plans and resources to be devoted to such promotion.
- g.* Describe procurement policies that emphasize the utilization of Iowa employees, resources, goods and services in the operation of the excursion gambling boat.

20.13(2) Reserved.

491—20.14(99F) Economic, demographic and other.

20.14(1) Every application to become a license holder shall contain the following economic, demographic, and miscellaneous information:

a. Describe briefly climatic conditions prevalent during the proposed excursion and off-season that may affect boat operation.

b. Indicate the population of the local area and the growth trend. Indicate potential markets including tourists, transients, and patrons from neighboring areas.

c. Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional and services, and military and other governmental sources.

d. Indicate the effect of competition in and out of state, with pari-mutuel tracks, casino operations, Indian gaming and other sports or recreational facilities in the area. State in detail what effect the competition from other excursion gambling boats will have on the availability of personnel and economic success of the operation.

e. Indicate what effect opposition from area residents will have on the economic outlook for the proposed excursion gambling casino boat operation.

f. Commission approval of ownership interest, directors or officers of licensees.

(1) An applicant or licensee shall notify the commission of the identity of each director, corporate officer and owner, partner, joint venturer, trustee or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the commission, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the commission may require.

For purposes of these rules, beneficial interest includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

(2) For ownership interests of less than 5 percent, the commission may request a list of these interests. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The commission may request the same information required of those individuals in subparagraph (1) above.

(3) The commission may deny, suspend or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, professional qualifications or due to failure to meet other criteria employed by this commission, to participate in gaming regardless of the percentage of ownership interest involved. The commission may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

(4) The department of public safety may request payment of the investigative fee in advance as a condition precedent to beginning investigation.

g. Application after denial or revocation. Any applicant for a license to conduct gambling games on an excursion gambling boat, a license to operate an excursion gambling boat, or a license to operate gambling games at a pari-mutuel racetrack enclosure that has been denied or revoked is not eligible to apply again for licensing until after expiration of one year from the date of such denial or revocation, unless the commission advises that the denial is without prejudice.

20.14(2) Reserved.

491—20.15(99F) Duties and obligations of nonprofit applicant and proposed operators.

20.15(1) *Duties and obligations of applicants and licensees.* No person shall give anything of value with the intent to influence the action or decision of an individual on any matter brought before that individual acting in the individual's official capacity including but not limited to:

- a. Any member of the commission.
- b. Any officer, agent or employee of the state of Iowa or a political subdivision of the state or an officeholder or candidate for public office.
- c. Any spouse, lineal heir, or employee of any of the persons listed in paragraph "a" or "b" of this subrule.

20.15(2) *Political campaign contributions.* This rule shall not prohibit a licensed boat operator or an applicant for a boat operator's license from making political campaign contributions otherwise legal under state and federal law.

20.15(3) *Powers of the commission.* Without in any way limiting the powers of the commission, the commission may provide:

- a. That a time period be accelerated or extended; or
- b. That the processing of an application or to the granting of an approval, subject to such conditions as the commission may deem appropriate.

20.15(4) *Evidence of character and reputation.* The commission will not issue a license to an applicant if there is substantial evidence that the officers, directors, partners or shareholders of the applicant are not of good repute and moral character. Any evidence concerning an officer's, director's, partner's or shareholder's current or past conduct, dealings, habits, or associations which is otherwise relevant to that individual's character and reputation may be considered. The commission may consider all relevant facts surrounding alleged criminal or wrongful conduct resulting in the filing of criminal charges, a conviction, nolo contendere, no contest or Alford pleas entered by the applicant or operator in any court or administrative proceedings. A criminal conviction of an individual will be conclusive evidence that the individual committed the offense for which the individual was convicted, but this does not preclude the commission from considering evidence that the individual committed additional offenses. The commission will decide what weight and effect evidence about an officer, director, partner or shareholders should have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. Officers, directors, partners and shareholders who have a significant interest in the management, ownership, operation, or success of an application may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role in such matters.

20.15(5) *Duty to comply.* It shall be the affirmative responsibility and continuing duty of each applicant, licensee, and boat operator to comply with the requirements of an application and conditions of a license.

491—20.16(99F) Commission approval of contracts. Rescinded IAB 7/17/96, effective 8/21/96.

491—20.17(99F) Availability of minutes. Minutes of the meetings of partners, stockholders and directors of the applicant or thereafter licensee shall be made available to the commissioners, but copies thereof need not be filed as a matter of record in the office of the commission.

491—20.18(99F) Leased facilities. If any applicant for a license will lease an excursion gambling boat facility from another entity, the lessor shall be required to provide the same information required by these rules to the commission including copies of all leases, agreements and contracts of any nature between the lessor entity and the applicant.

491—20.19(99F) Additional information as required. The commission may require any additional information it deems necessary from the applicant for the purpose of ruling on the license application.

491—20.20(99F) Distribution of applications and fees. The original and five copies of all applications, notices and other matters required by these rules shall be filed with the Racing and Gaming Commission Office, 717 East Court, Suite B, Des Moines, Iowa 50309. One additional copy shall be delivered to each commissioner at the address of record on file in the office of the commission. The applicant shall pay a nonrefundable application fee to offset the commission cost for processing the application in the amount of \$25,000; however, the fee shall be \$5,000 for the second application involving the same operator and the same qualified sponsoring organization. Additionally, the applicant will remit an investigative fee of \$15,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or excursion gambling boat begins operation. Any application fee for a license to operate gambling games within a racetrack enclosure shall be determined by the commission. Customary documentation by the department of public safety will be the basis for determining cost of background investigations. All applications, notices and other matters shall be verified, under oath, and all copies shall be manually signed in ink.

491—20.21(99F) Subsequent license applications.

20.21(1) Every licensee, and person associated with a licensee, and every qualified sponsoring organization, and persons associated with or members of a qualified sponsoring organization, shall file a statement with the commission whenever they become a partner, limited partner, officer, director or the beneficial owner, directly or indirectly, of more than 10 percent of any class of security of any partnership, limited partnership, corporation, association or entity which engages in, conducts or participates in any racing, gaming or gambling activities.

20.21(2) The statement shall contain the following information:

- a.* The name and address of the entity and a description of its organization (i.e., partnership, corporation, etc.).
- b.* The type of racing, gaming, or gambling activities.
- c.* The name and address of all other participants (i.e., partners, officers, directors, shareholders) in the racing, gaming or gambling entity.
- d.* The relationship of the licensee or qualified sponsoring organization, or any person associated with or a member of a licensee or sponsoring organization, with the racing, gaming or gambling entity.
- e.* The identity of any state or local agency which has jurisdiction over the racing, gaming or gambling activities of the entity.
- f.* Any other information required by the Iowa racing and gaming commission.

The commission may deny, revoke, suspend, limit, condition, or restrict any license on finding that the licensee is associated with, or controls, or is controlled by, or is under common control with, an unsuitable person.

491—20.22(99F) Limitation on the number and locations of licenses to conduct gambling games on excursion boats.

20.22(1) The total number of licenses issued to conduct gambling games on excursion boats shall not exceed ten and shall be restricted to the counties where such boats were operating (or licensed to operate in the future) as of May 1, 1998.

20.22(2) Notwithstanding subrule 20.22(1), with the approval of the commission:

- a. A licensed excursion gambling boat may move to a new location within the same county.
- b. A licensed excursion gambling boat and its facilities may be sold and a new license issued for operation in the same county.
- c. If a license to conduct gambling games on an excursion gambling boat is surrendered, not renewed, or revoked, a new license may be issued for operation in the same county.

***20.22(3)** A licensee seeking an increase in the number of gaming tables or gaming machines on an excursion gambling boat must obtain prior approval from the commission. In the request for approval, a licensee shall demonstrate to the commission's satisfaction that the additional gaming tables and gaming machines:

- a. Will have a positive economic impact on the community in which the licensee operates;
- b. Will benefit the residents of Iowa;
- c. Will result in increased distributions to qualified organizations entitled to distributions under Iowa Code section 99F.6(4) "a";
- d. Are necessary to satisfy overall excess demand in the particular market in which the licensee is located;
- e. Will result in permanent improvements and land-based development in Iowa;
- f. Are supported within the broader community in which the licensee operates;
- g. Will not have a detrimental impact on the financial viability of other licensees operating in the market in which the licensee operates; and
- h. Are consistent with legislative intent concerning the purpose of excursion gambling boats.

The various criteria set forth may not have the same importance in each instance and other factors may present themselves in the consideration of the increase. The criteria are not listed in any order or priority.

In addition to the foregoing criteria, a licensee requesting additional gaming tables or gaming machines shall demonstrate to the commission's satisfaction that (1) the licensee is in compliance with applicable statutes, rules and orders and has not had any material violation of any statutes, rules or orders in the previous 12 months; and (2) the licensee has taken sufficient steps to address the social and economic burdens of problem gambling.

These rules are intended to implement Iowa Code chapters 99D and 99F.

*Effective date of 12/23/98 delayed until the end of the 1999 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 1998.

- [Filed 12/4/89, Notice 10/18/89—published 12/27/89, effective 1/31/90]
- [Filed 1/18/91, Notice 11/14/90—published 2/6/91, effective 3/13/91]
- [Filed emergency 8/2/91—published 8/21/91, effective 8/2/91]
- [Filed 12/6/91, Notice 10/16/91—published 12/25/91, effective 1/29/92]
- [Filed 2/1/94, Notice 11/10/93—published 3/2/94, effective 4/6/94]
- [Filed emergency 5/20/94—published 6/8/94, effective 5/20/94]
- [Filed 7/22/94, Notice 6/8/94—published 8/17/94, effective 9/21/94]Ø
- [Filed 1/23/96, Notice 12/6/95—published 2/14/96, effective 3/20/96]
- [Filed 6/21/96, Notice 5/8/96—published 7/17/96, effective 8/21/96]
- [Filed 10/18/96, Notice 9/11/96—published 11/6/96, effective 12/11/96]
- [Filed 4/10/97, Notice 2/12/97—published 5/7/97, effective 6/11/97]
- [Filed emergency 8/22/97 after Notice 7/16/97—published 9/10/97, effective 8/22/97]
- [Filed 8/22/97, Notice 7/16/97—published 9/10/97, effective 10/15/97]
- [Filed 9/19/97, Notice 8/13/97—published 10/8/97, effective 11/12/97]
- [Filed 10/28/97, Notice 9/10/97—published 11/19/97, effective 12/24/97]
- [Filed 7/24/98, Notice 6/17/98—published 8/12/98, effective 9/16/98]
- [Filed 9/18/98, Notice 8/12/98—published 10/7/98, effective 11/11/98]
- [Filed 10/26/98, Notice 9/9/98—published 11/18/98, effective 12/23/98*]

ØTwo ARCs

*Effective date of 20.22(3) delayed until the end of the 1999 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 1998.